



The New Swiss VAT Law 2018

November 2017

kpmg.ch

Federal Law with regard to Value Added Tax (Value Added Tax law, VAT law)

dated 12th June 2009 (As at 1 January 2018)

The General Assembly of the Swiss Confederation,
based on Article 130 of the Federal Constitution,
having studied the statement of the Federal Council dated 25 February 2015,
hereby decrees:

1st Title: General Stipulations

Art. 1 Subject and principles

¹ The Confederation levies a general consumption tax based on the system of net all-phase taxation with input tax deduction (Value Added Tax). The purpose of the tax is to tax non-business end use in Switzerland.

² As Value Added Tax it levies:

- a. a tax on supplies rendered against consideration by taxable persons in Switzerland (domestic tax);
- b. a tax on the acquisition of supplies from enterprises with their place of business abroad by recipients in Switzerland (acquisition tax);
- c. a tax on the import of goods (import tax).

³ The tax is levied on the following principles:

- a. competitive neutrality;
- b. efficiency of payment and imposition;
- c. transferability.

Art. 2 Relationship to cantonal law

¹ Ticket taxes and taxes on the transfer of title that are imposed by the cantons and municipalities do not qualify as similar taxes as defined in Article 134 of the Federal Constitution.

² They may be imposed, to the extent they do not include Value Added Tax in their measurement base.

Art. 3 Definitions

For the purpose of this law the following definitions apply:

- a. Inland (Switzerland): Swiss territory with the customs examination areas according to Article 3 Paragraph 2 of the Customs Law dated 18 March 2005 (ZG);
- b. Goods: moveable and immoveable objects and electricity, gas, heating, cooling and similar;
- c. Supply: the concession of a usable economic asset to a third party in expectation of a consideration, even if it is required by law or based on an official order;
- d. Delivery:
 1. Creation of the ability to dispose commercially over a good under one's own name,
 2. Delivery of a good, on which work has been performed, even if the good is not altered by the work, but only tested, calibrated, regulated, checked for its function or has been treated in another way,
 3. Making a good available for use or exploitation;
- e. Service: every supply that is not a delivery; a service is also given if:
 1. Intangible assets and rights are made available,
 2. An action is omitted or an action or a situation is tolerated;
- f. Consideration: asset, which the recipient or in place of the recipient a third party expends in return for receipt of a supply;
- g. Public service: service provided by a political unit or by a person or organisation used by a political unit which is without business character, in particular is not marketable and is not in competition with activities of private suppliers, even if fees, contributions or other charges are levied for the service;
- h. Closely related persons:
 1. The owners of at least 20 percent of the share capital of an enterprise or of a corresponding interest in a non-corporate entity or persons associated with them,
 2. Associations and foundations with which a particularly close economic, contractual or personal relationship exists; pension funds do not rank as closely related persons;
- i. Donation: voluntary contribution with the intention of enriching the recipient without expectation of a reward in the VAT sense; a contribution also qualifies as a donation, if:
 1. the contribution is mentioned once or on several occasions in a publication in neutral form, even if the name or the logo of the donor is used,
 2. contributions by passive members and by sponsors to associations or to charitable organisations are concerned; contributions by sponsors to charitable organisations also qualify as a donation if the charitable organisation voluntarily grants its sponsors benefits within the framework

of the object under its articles, provided that it informs the sponsors that there is no entitlement to receive the benefits;

- j. Charitable organisation: organisation which fulfils the requirements that apply for Direct Federal Tax pursuant to Article 56 lit.g DBG;
- k. Invoice: any document with which settlement is made for a supply with a third party, irrespective of how the document is titled in business transactions.

Art. 4 Samnaun and Sampoair

¹ As long as the valley areas of Samnaun and Sampoair remain outside Swiss customs territory, this law applies in both valley areas only for services.

² The loss of tax revenue suffered by the Confederation as a result of Paragraph 1 is to be compensated by the municipalities of Samnaun and Valsot.

³ The Federal Council regulates the details in consultation with the municipalities of Samnaun and Valsot. In doing so it gives appropriate consideration to the savings resulting from the lower cost of levying the tax.

Art. 5 Indexation

The Federal Council resolves the adjustment of the Swiss franc amounts mentioned in Articles 31 Paragraph 2 lit. c, 37 Paragraph 1, 38 Paragraph 1 and 45 Paragraph 2 lit. b, as soon as the Swiss consumer price index has increased by more than 30 percent since the most recent calculation.

Art. 6 Tax transfer

¹ The transfer of the tax is based on agreements governed by private law.

² The civil courts are competent to judge disputes about the transfer of the tax.

Art. 7 Place of delivery

¹ The place of delivery is the place at which:

- a. the good is located, at the time of the creation of the ability to dispose over it commercially, of its delivery or of its availability for use or exploitation;
- b. the transport or shipment of the good to the customer or to a third party on his or her instructions begins.

² The place of delivery of electricity in cables, gas via the natural gas distribution grid and district heating is deemed to be the place at which the recipients of the delivery have their place of business, or a permanent establishment for which the delivery is made, or, in the absence of such a place of business or such a permanent establishment, the place in which the electricity, the gas or the district heating is actually used or consumed.

³ Where an object is delivered from abroad into Switzerland, the place of delivery is deemed to be in Switzerland, provided that the supplier:

- a. has received authorisation from the Federal Tax Administration (FTA) to make the import in his or her own name (customs clearance and taxation declaration) and does not waive the authorisation at the date of import; or
- b. makes deliveries according to Article 7 Paragraph 1 lit. b which according to Article 53 Paragraph 1 lit. a are exempt from the import tax because of the immaterial tax amount and realises a turnover of 100,000 francs per year from this.

Art. 8 Place of a service

¹ The place of a service is deemed, subject to Paragraph 2, to be the place, at which the recipient of the service has its place of business or a permanent establishment, for which the service is rendered, or in the absence of such a place of business or such a permanent establishment, its place of residence or the place of his or her normal abode.

² The place of the following services is deemed to be:

- a. for services, which typically are rendered directly in the physical presence of individuals, even if exceptionally they are rendered at a distance: the place, at which the person rendering the service has its place of business or a permanent establishment, or in the absence of such a place of business or such a permanent establishment the place of residence or the place, from which the person works; such services are in particular: healing treatments, therapies, nursing, personal hygiene, marriage, family and life counselling, social services and social welfare services and child and youth care;
- b. for services provided by travel agencies and event organisers: the place, at which the person rendering the service has its place of business or a permanent establishment, or, in the absence of such a place of business or such a permanent establishment, the place of residence or the place, from which the person works;
- c. for services in the area of culture, the arts, sport, the science, scholarship, entertainment or similar services, including services of the event organiser and related services, if applicable: the place, at which these activities are actually performed;
- d. for hotel and restaurant services: the place, at which the service is actually rendered;
- e. for passenger transport services: the place, at which measured by the distance travelled the transport actually takes place; the Federal Council can order that, in the case of cross-border transport, short internal distances can count as foreign and short distances abroad as internal distances;
- f. for services in connection with real property: the place, at which the property is situated; such services are in particular: broking, management, survey and valuation of the property, services in connection with the purchase or creation

of mortgages on the property, services in connection with the preparation or the coordination of construction services, such as architectural, engineering and construction supervision services, surveillance of properties and buildings and accommodation services;

- g. for services in the area of international development cooperation and humanitarian help: the place, for which the services is destined.

Art. 9 Avoidance of distortion of competition

In order to avoid distortion of competition by double taxation or non-taxation of cross-border supplies, the Federal Council may, in divergence from Article 3, regulate the definition of deliveries and services and, in divergence from Articles 7 and 8, determine the place of supply.

2nd Title: Domestic tax

1st Chapter: Taxable person

Art. 10 Principle

¹ Liable for the tax is any person, who irrespective of legal form, object and view to gain, carries on a business and:

- a. makes supplies in Switzerland with this business; or
- b. has their seat, residence or permanent establishment in Switzerland.

^{1bis} A person carries on a business, who:

- a. independently performs a professional or commercial activity with the purpose of the sustainable earning of income from supplies, irrespective of the level of the flow of funds which according to Article 18 Paragraph 2 do not qualify as consideration; and
- b. acts externally under his or her own name.

^{1ter} The acquisition, holding and sale of investments within the meaning of Article 29 Paragraphs 2 and 3 constitutes a business activity.

² Exempt from tax liability is anyone, who:

- a. within one year generates in Switzerland and abroad turnover of less than 100,000 francs from supplies which are not exempt from the tax without credit under Article 21 Paragraph 2;
- b. carries on a business with its place of business abroad, which in Switzerland, irrespective of the turnover, makes exclusively one or several of the following kinds of supply:
 - 1. Supplies which are exempt from tax.

2. Services where the place of supply is deemed under Article 8 Paragraph 1 to be in Switzerland; not exempt from tax liability is, however, anyone who renders telecommunication or electronic services to recipients who are not liable to the tax;
 3. The delivery of electricity in cables, gas via the natural gas distribution grid and district heating to taxable persons in Switzerland;
- c. as a non-profit, honorary sporting or cultural association or as a charitable organisation generates in Switzerland or abroad within one year a turnover of less than 150,000 francs from supplies which are not exempt from the tax without credit under Article 21 Paragraph 2.

^{2bis} The turnover is calculated according to the agreed considerations without the tax.

³ The place of business in Switzerland and all domestic permanent establishments together represent a taxable person.

Art. 11 Waiver of exemption from tax liability

¹ Anyone who carries on a business and is exempt from tax liability under Article 10 Paragraph 2 or 12 Paragraph 3, has the right to waive exemption from tax liability.

² Exemption from tax liability must be waived for at least one tax period.

Art. 12 Political units

¹ Among the political units taxable persons are the autonomous agencies of the Confederation, cantons and municipalities and the other public law institutions.

² Agencies may combine as a single taxable person. The combination can be elected for the beginning of any tax period. It must be retained for at least one tax period.

³ A taxable person of a political unit is exempt from tax liability, as long as less than 100,000 francs turnover per year derive from taxable supplies to non-political units. The turnover is measured by the agreed considerations without the tax.

⁴ The Federal Council determines what supplies made by political units qualify as business and therefore taxable.

Art. 13 Group taxation

¹ Legal entities with their place of business or a permanent establishment in Switzerland which are closely associated with one another under the common direction of a legal entity may on application combine as a single taxable person (VAT group). The group may also include legal entities which do not carry on a business and individuals.

² Combination as a VAT group may be elected for the beginning of any tax period. Termination of a VAT group is possible for the end of a tax period.

Art. 14 Commencement and termination of tax liability and of exemption from tax liability

¹Tax liability commences:

- a. For businesses having their seat, residence or permanent establishment in Switzerland: with the commencement of the business activity.
- b. For all other businesses: when a supply is made in Switzerland for the first time.

²Tax liability ends:

- a. For businesses having their seat, residence or permanent establishment in Switzerland:
 1. On discontinuance of the business activity,
 2. On liquidation of assets: with the conclusion of the liquidation procedure;
- b. For all other businesses: at the end of the calendar year in which a supply is made in Switzerland for the last time.

³ Exemption from tax liability ends, as soon as the total of the turnovers generated in the last financial year reaches the limit in Article 10 Paragraph 2 lit. a or c or 12 Paragraph 3, or it is foreseeable that the limit will be exceeded within 12 months of commencing or extending the business activity.

⁴ Waiver of the exemption from tax liability may be declared at the earliest for the beginning of the current tax period.

⁵ If the qualifying turnover of the taxpaying person does not reach the turnover limit according to Article 10 Paragraph 2 lit. a or c or 12 Paragraph 3 and it is to be expected that the qualifying turnover will also not be reached in the following tax period, the taxpaying person must de-register. De-registration is not possible before the end of the tax period in which the qualifying turnover has no longer been reached. Failure to de-register is deemed to be waiver of exemption from tax liability under Article 11. The waiver applies from the beginning of the following tax period.

Art. 15 Joint liability

¹ Jointly and severally liable with the taxable person are:

- a. the partners in an unregistered partnership, a general or limited partnership within the scope of their civil law liability;
- b. persons, who voluntarily conduct or arrange an auction;
- c. every person or unincorporated entity that is a member of a VAT group (Art. 13), with the exception of pension funds, for all taxes payable by the group; if a person or unincorporated entity withdraws from the group, they are liable only for the tax claims that have arisen from their own business activity;
- d. on transfer of a business: the previous tax debtor for three years after the announcement or reporting of the transfer for tax claims that arose before the transfer;

- e. on termination of the tax liability of a wound up legal entity, trading company or partnership without legal personality: the persons entrusted with the liquidation up to the amount of the liquidation surplus;
- f. for the tax of a legal person that relocates their domicile abroad: the managing bodies up to the amount of the net assets of the legal entity.

²The persons designated in Paragraph 1 lit. e and f are liable only for the tax, interest and cost claims, which arise or fall due under their management; their liability lapses, if they can prove that they have done everything that could reasonably be expected of them to ascertain and satisfy the tax claim.

³The liability under Article 12 Paragraph 3 of the Federal Law on Administrative Penal Law (VStrR) dated 22 March 1974 remains reserved.

⁴ If a taxable person assigns claims from their business to third parties, they are subsidiarily liable for the Value Added Tax included in the assignment, if at the date of the assignment the tax liability to the FTA has not yet arisen and a certificate of unpaid debts is available.

⁵ The person jointly and severally liable has in proceedings the same rights and obligations as the taxable person.

Art. 16 Succession to tax liability

¹ If a taxable individual dies, his heirs enter into his rights and obligations. They are liable jointly and severally for the taxes owed by the deceased up to the amount of their inheritance, including amounts received in advance.

² A person who takes over a business enters into the tax rights and obligations of his legal predecessor.

Art. 17 Tax substitution

Satisfaction of the tax liability of foreign trading companies and foreign partnerships without legal personality is the responsibility of their owners.

2nd Chapter: Object of taxation

Art. 18 Principle

¹ Subject to domestic tax are supplies made by taxable persons in Switzerland against consideration; they are taxable, unless this law provides for an exception.

² For lack of a supply the following flows of funds in particular do not qualify as consideration:

- a. Subventions and other public-law contributions, even if they are paid on the basis of a performance mandate or a programme agreement pursuant to Article 46 Paragraph 2 of the Federal Constitution;

- b. Funds that spa and tourist offices receive exclusively out of public-law tourist charges and which they employ on behalf of political units for the public good;
- c. Contributions from cantonal water, sewage or waste funds to waste disposal institutions or waterworks;
- d. Donations;
- e. Contributions to businesses, in particular interest free loans, recapitalisation payments and forgiveness of debt;
- f. Dividends and other profit shares;
- g. Contractually or legally governed cost sharing payments that are paid by an organisational unit, in particular by a fund, to participants in an industry;
- h. Deposits in particular on caps and casks;
- i. Payments of claims, damages and the like;
- j. Remuneration for employment, such as Directors' and Trustees' fees, remuneration of authorities or pay;
- k. Reimbursements, contributions to and allowances for deliveries abroad that are exempt from the tax under Article 23 Paragraph 2 Heading 1;
- l. Charges, contributions or other payments received for official work.

Art. 19 Plurality of supplies

¹ Mutually independent supplies are treated separately.

² Several mutually independent supplies, which are aggregated into one unit or are offered as a combination of supplies, can be treated as a unit according to the predominant supply, if they are made against an aggregate consideration and the predominant supplies represent by value at least 70 percent of the aggregate consideration (combination).

³ Supplies that are economically closely related and interact with one another in such a way that they are to be regarded as an indivisible whole, qualify as a unitary economic transaction and are to be treated according to the character of the aggregate supply.

⁴ Ancillary supplies, in particular caps and packaging, are treated for tax purposes in the same way as the main supply.

Art. 20 Attribution of supplies

¹ A supply is deemed to be made by the person, who appears to the outside world as the supplier.

² If a person acts in the name of and for account of another person, the supply is deemed to be made by the person represented, if the representative:

- a. can prove that it acts as representative and can clearly identify the person represented; and
- b. the existence of a representation relationship is expressly notified to the recipient of the supply or is given by the circumstances.

³ If Paragraph 1 is applicable in a triangular relationship, the supply relationship between the person appearing to the outside world and the person actually making the supply is qualified in the same way as the supply relationship between the person appearing to the outside world and the person receiving the supply.

Art. 21 Supplies exempt from the tax without credit

¹ A supply that is exempt from the tax without credit and for which taxation under Article 22 is not opted, is not taxable.

² Exempt from the tax without credit are:

1. the transport of goods, included in the reserved services under Article 3 of the Postal Law dated 30 April 1997;
2. hospital treatment and medical treatment in human medicine hospitals, including closely related supplies, made by hospitals and medical treatment and diagnostic centres. The dispensing of self-manufactured or bought-in artificial limbs and orthopaedic equipment is deemed to be a taxable delivery;
3. human medical treatment provided by doctors, dentists, psychotherapists, chiropractors, physiotherapists, naturopaths, midwives male and female, nursing professionals or members of similar medical and nursing professions, to the extent the suppliers possess a licence to practice their profession: the Federal Council regulates the details. The dispensing of self-manufactured or bought-in artificial limbs and orthopaedic equipment is deemed to be a taxable delivery;
4. the nursing care services rendered by nursing staff, nursing organisations and home aid (Spitex) or in homes, provided they are prescribed by a doctor;
5. the delivery of human organs by recognised medical institutions and hospitals and of human whole blood by persons possessing the necessary licence;
6. the services of communities, whose members are members of the professions listed in Heading 3, to the extent the services are rendered proportionately at cost to the members for direct performance of their work;
7. the transport of sick or injured persons or persons with disabilities in vehicles specially adapted for the purpose;
8. supplies made by social assistance and social security institutions, charitable nursing and home aid (Spitex) organisations and by old people's residential and nursing homes;
9. supplies related to child and youth care by institutions specially fitted for the purpose;
10. supplies closely related to cultural and educational research for young people by charitable youth exchange organisations; youths in the sense of this provision are persons up to the age of 25;
11. the following supplies in the field of education and training:
 - a. supplies in the field of the education of children and youths, of instruction, of training, of further education and of professional re-training, including instruction given by private teachers or at private schools,

- b. courses, lectures, and other events of a scholarship or educational nature; lecturing activity is exempt from the tax, irrespective of whether the fee is paid to the instructing person or his employer,
 - c. examinations carried out in the area of education,
 - d. organisational services (including related ancillary services) or members of an institution that makes supplies exempt from the tax under letters a–c, for this institution,
 - e. organisational services (including related ancillary services) for agencies of the Confederation, cantons and municipalities, that make supplies exempt from the tax under letters a–c with or without consideration;
12. the provision of staff by religious or philosophical non-profit institutions for purposes of treating the sick, of social assistance and of social security, of child and youth care, of education and training and for sacred and charitable purposes and for the common good;
13. supplies that non-profit institutions with a political, trade union, economic, religious, patriotic, philosophical, philanthropic, ecological, sporting, cultural or civic object provide to their members against a contribution laid down in statutes or regulations;
14. cultural services provided directly to the public or, if not provided directly, directly experienced by the public, of the types listed below:
 - a. theatrical, musical and choreographic performances and film shows,
 - b. performances by actors and actresses, musicians, dancers and other performing artists, supplies by persons who make an artistic contribution to such performances, as well as supplies by showmen, including games of skill,
 - c. visits to museums, galleries, monuments, historical sites and botanical and zoological gardens,
 - d. services of libraries, archives and places for storing documents, in particular the permitting of inspection of text, sound and picture carriers in their premises; taxable, however, is the delivery of goods (including the right of use) by such institutions;
15. considerations demanded for sporting events, including for participation in such events (e.g. starting money) together with the ancillary services included;
16. cultural services and delivery of works of a cultural kind by their creators, such as authors, composers, film makers, painters, sculptors and services provided by publishers and exploitation companies to circulate these works; this also applies to derivative works within the meaning of Article 3 of the Copyright Act of 9 October 1992 which are of a cultural kind;
17. the supplies made at events such as bazaars, flea markets and raffles by organisations that perform activities that are exempt from the tax without credit in the field of non-profit making sport and cultural activity, in the field of treating the sick, social assistance and social security, child and youth care, and by charitable nursing and home care (Spitex) organisations and by retirement

homes, hostels and nursing homes, provided the events serve the purpose of supporting these organisations financially and are held exclusively for their benefit; supplies by social assistance and social security organisations that generate them through second hand shops exclusively for their benefit;

18. in the area of insurance:

- a. insurance and reinsurance supplies,
- b. social security supplies,
- c. the following supplies in the area of social security and prevention:
 - supplies by social security organisations among themselves
 - supplies by implementing bodies on the basis of preventive duties laid down by law
 - supplies which serve occupational training and development;
- d. supplies within the scope of the activity as insurance representative or insurance broker;

19. the following turnovers in the field of money and capital transactions:

- a. the granting and brokerage of credits and the management of credits by the lenders,
- b. the brokerage and assumption of liabilities, guarantees and other securities and guarantees and the management of collateral by the lenders,
- c. the turnovers, include brokerage in deposits and current account transactions, in payment and transfer transactions, in business with money claims, cheques and other negotiable paper; taxable, however, is the collection of debts on behalf of the creditor (debt collection business),
- d. the turnovers, including brokerage relating to legal tender (domestic and foreign legal tender, such as currency, bank notes, coins); taxable, however, are collectors' items (bank notes and coins), which are normally not used as legal tender,
- e. the turnovers (spot and forward transactions), including brokerage of securities, rights and derivatives and of interests in companies and other forms of association; taxable are, however, the safe-keeping and the management of securities, rights and derivatives and of interests (especially safe-keeping) including fiduciary investments,
- f. the distribution of shares in collective investments under Article 3 Paragraph 1 of the Collective Investments Law dated 23 June 2006 (KAG), actions according to Article 3 Paragraph 2 KAG and the management of collective investment funds by persons, who manage or hold them for safekeeping, fund managements, depositary banks and their agents; all individuals or legal entities, to whom the collective investments may delegate tasks under the KAG are regarded as agents; the distribution of shares and the management of investment companies with fixed capital under Article 110 KAG is governed by lit.e;

20. the transfer and the creation of in rem rights in real estate and the supplies of commonhold property associations to the commonhold property owners, to the extent the supplies consist of the provision of the common property for use, its maintenance, its repair and other management and the delivery of heating and similar goods;
21. the provision of real estate and real estate divisions for use or exploitation; taxable, however, are:
 - a. the brokerage of residential and sleeping accommodation for guests and the renting of halls and rooms in hotels and restaurants,
 - b. the renting of camping sites,
 - c. the renting or leasing of non-public places for parking motor vehicles, unless it is a non-independent service ancillary to another property rental exempt from the tax,
 - d. the renting and leasing of immoveable equipment and machines belonging to an operating facility, but not to a sports facility,
 - e. the renting of safe deposit boxes,
 - f. the renting of exhibition stands and individual rooms in exhibition and congress buildings;
22. the delivery of postal stamps valid in Switzerland and other official stamps up to their printed value;
23. the turnovers in betting, lottery and other games of chance involving wagers, to the extent they are subject to a special tax or other duties;
24. the delivery of used moveable goods, which were used exclusively for the provision of supplies exempt by this article from the tax;
25. [*repealed*];
26. the sale of agricultural, forestry and market garden products cultivated in their own business by farmers, foresters or gardeners and the sale of cattle by cattle dealers and the sale of milk by milk collection points to milk processing plants;
27. publicity services, which charitable organisations provide for the benefit of third parties or third parties for the benefit of charitable organisations;
28. supplies:
 - a. by the organisational units of the same political unit among themselves,
 - b. by private-law or public-law companies held exclusively by political units, and the political units which hold them as well as their organisational units, among themselves,
 - c. by establishments or foundations which were set up exclusively by political units, and the political unit concerned in the setting up and its organisational units, among themselves;
- ^{28bis} the provision of staff by political units to other political units
29. the exercise of arbitration functions.

30. supplies among themselves by educational and research institutions that are concerned in an educational and research collaboration, provided that they are made as part of the collaboration, irrespective of whether the educational and research collaboration is a taxable person.

³ Whether a supply mentioned in Paragraph 2 is exempt from the tax without credit is determined with a reservation as to Paragraph 4 exclusively by its content and regardless of who renders or receives the supply.

⁴ If a supply in Paragraph 2 is exempt from the tax without credit either based on the attributes of the supplier or of the recipient of the supply, the exception applies only for supplies that are rendered or received by a person with these attributes.

⁵ Organisational units of a political unit within the meaning of Paragraph 2 Item 28 are: its departments, its private-law or public-law companies, provided that neither other political units nor other third parties have any holding in them, as well as its establishments and foundations, provided that the political unit set them up without other political units or other third parties having any holding in them.

⁶ The Federal Council shall stipulate which institutions shall qualify as educational and research institutions within the meaning of Paragraph 2 Item 30.

Art. 22 Option for the taxation of supplies exempt from the tax without credit

¹ The taxable person may, subject to Paragraph 2, tax any supply exempt from the tax without credit (option), provided the tax is disclosed openly or declared in the tax reporting.

² The option is excluded for:

- a. Supplies under Article 21 Paragraph 2 Items 18, 19 and 23;
- b. Supplies under Article 21 Paragraph 2 Items 20 and 21, if the good is used by the recipient exclusively for residential purposes or is intended to be so used.

Art. 23 Supplies exempt from the tax

¹ If a supply is exempt from the tax under this article, domestic tax is not payable on the supply.

² Exempt from the tax are:

1. the delivery of goods, unless provided for use or exploitation, that are transported or despatched directly abroad;
2. the provision for use or exploitation, in particular the leasing or chartering of goods, provided the goods are used by the recipient of the delivery himself or herself predominantly abroad;
3. the delivery of goods that in connection with a transit procedure (Art. 49 ZG), a bonded warehouse procedure (Art. 50–57 ZG), a temporary use customs procedure (Art. 58 ZG), or active finishing (Art. 59 ZG), were demonstrably subject to customs control in Switzerland, provided that the procedure was concluded in due form or under a subsequent permit of the Federal Customs Administration (EZV);

- ^{3bis}the delivery of goods which were demonstrably subject to customs control in Switzerland because of storage in a bonded warehouse (Art. 62–66 ZG) and did not lose this customs status retroactively;
4. the movement, or arranging for the movement, of goods abroad, that is not related to a delivery;
 5. the transport or despatch of goods in connection with the import of goods and all related supplies as far as the destination, to which at the time the tax liability is incurred under Article 56 are to be transported; if no tax liability is incurred, the decisive time is governed by Article 69 ZG by analogy;
 6. the transport or despatch of goods in connection with the export of goods freely exportable under customs law and all related supplies;
 7. transport services and ancillary logistic activities, such as loading, unloading, transshipment, clearing or temporary warehousing:
 - a. in respect of which the place of supply according to Article 8 Paragraph 1 is in Switzerland, but the service itself is performed exclusively abroad, or
 - b. which are performed in connection with goods that are under customs control;
 8. the delivery of aircraft to airlines that carry on commercially air transport and charter business and whose turnovers from international flights exceed those from domestic traffic; refurbishment, maintenance and servicing of aircraft, which airlines have acquired as part of a delivery; deliveries, maintenance and servicing of goods built into these aircraft or of goods for their operation; deliveries of goods for the maintenance of these aircraft and services that are destined for the immediate needs of these aircraft and their loads;
 9. the services of intermediaries acting expressly in the name of and for account of others, if the brokered supply is either exempt from the tax under this article or is effected exclusively abroad; if the brokered supply is effected both in Switzerland and abroad, that part of the brokerage is exempt from the tax, which relates to supplies abroad or supplies that are exempt from the tax under this article;
 10. services rendered in their own name by travel agents and organisers of events, to the extent they draw on deliveries and services of third parties, which are effected by them abroad; if these supplies by third parties are rendered both in Switzerland and abroad, only that part of the service of the travel agent or of the organiser is exempt from the tax that relates to supplies abroad.
 11. the delivery of goods in accordance with Article 17 Paragraph ^{1bis}ZG to travellers who are flying abroad or arriving from abroad.

³Direct export under Paragraph 2 Item 1 is given, if the good delivered is exported abroad without being used in Switzerland or is exported to an open customs warehouse or bonded warehouse. In serial transactions the direct export extends to all suppliers involved. The good delivered can, prior to export, be processed or treated by agents of the non-taxable customer.

⁴The Federal Council may, in order to safeguard competitive neutrality, exempt from the tax transports in cross-border air, rail or bus traffic.

⁵ The Federal Department of Finance (EFD) regulates the conditions, under which domestic deliveries are exempt from the tax for the purpose of tourist traffic export and establishes the necessary evidence.

3rd Chapter: Measurement base and tax rates

Art. 24 Measurement base

¹ The tax is calculated on the consideration actually received. The consideration includes in particular also the reimbursement of all costs, even if they are invoiced separately, and the public-law charges payable by the taxable person. Paragraphs 2 and 6 remain reserved.

² For supplies to closely related persons (Art. 3 lit. h), the consideration is deemed to be the amount that would be agreed between independent third parties.

³ For barter transactions the market value of each supply is deemed to be the consideration for the other supply.

⁴ For exchange repairs the consideration covers only the wage for the work carried out.

⁵ For supplies in lieu of payment the consideration is deemed to be the amount which is thereby satisfied.

⁶ Not included in the measurement base are:

- a. Ticket taxes, property exchange taxes and the VAT itself payable on the supply;
- b. Amounts, which the taxable person receives from the person receiving the supply as reimbursement of outlays made in their name and for their account, provided they are disclosed separately (transitory items);
- c. The portion of the consideration that, on sale of an immoveable good, relates to the value of the land;
- d. The cantonal contributions to water, sewage or waste funds included in the price of disposal and supply services, to the extent these funds pay therefrom contributions to disposal organisations or waterworks.

Art. 24a Margin taxation

¹ If taxable persons have purchased collector's pieces such as works of art, antiques and the like, they can deduct the purchase price from the sale price for the purposes of calculating the tax, provided that they have not deducted any input tax on the purchase price (margin taxation). If the purchase price is higher than the sale price, the loss can be set off by deducting the difference from the taxable turnover.

² If such collector's pieces are imported by the reseller, the import tax paid can be added onto the purchase price.

³ A person who acts on his or her own account, or on the account of another based on a purchase contract or contract under which commission is payable on a sale, qualifies as a reseller.

4 The Federal Council shall stipulate what qualifies as a collector's piece.

5 If several collector's pieces are procured for one total price, the tax can be deducted from the total difference between the total sale price and the total purchase price. The Federal Council shall regulate the requirements.

Art. 25 Tax rates

¹The tax rate is 7.7 per cent (normal rate); subject to Paragraphs 2 and 3.

²The reduced tax rate of 2.5 per cent is applicable to:

- a. the delivery of following goods:
 1. water in pipes,
 2. food and additives under the Foodstuffs Law dated 9 October 1992,
 3. cattle, poultry, fish,
 4. grains,
 5. seeds, planting roots and bulbs, living plants, cuttings, scions and cut flowers and branches, including those used in arrangements bouquets, wreaths, etc.; if invoiced separately, the delivery of these goods is also subject to the reduced tax rate, if it is rendered in combination with a taxable supply taxable at the normal rate,
 6. animal feed, silage acids, scatterings for animals,
 7. fertilisers, pesticides, mulch and other vegetation used as covering material,
 8. medication,
 9. newspapers, magazines, books and other printed matter without advertising character of the kinds to be stipulated by the Federal Council;
- abis. electronic newspapers, magazines and books without advertising character of the kinds to be stipulated by the Federal Council;
- b. the services of radio and television companies, except services of a commercial nature;
- c. the supplies under Article 21 Paragraph 2 Items 14–16;
- d. the agricultural supplies, which consist of land cultivation directly related to initial production or cultivation of initial production products connected with the land.

³ For foodstuffs that are served in rendering hotel and restaurant supplies, the normal rate applies. A hotel and restaurant supply is the serving of foodstuffs if the taxable person prepares or serves them on the customer's premises or if the taxable person maintains special installations for their consumption on the spot. If foodstuffs, other than spirits, are destined to be taken away or delivered, the reduced tax rate is applicable, provided that suitable organisational measures have been taken for differentiating between these supplies and the hotel and restaurant supplies; otherwise the normal tax rate is applicable. If foodstuffs are on offer in vending machines, the reduced tax rate is applicable.

⁴The tax on accommodation services is 3.7 per cent (special rate). An accommodation service is the provision of accommodation, including the serving of breakfast, even if it is calculated separately.

⁵The Federal Council stipulates in greater detail the goods and services designated in Paragraph 2; in doing so it observes the principle of competitive neutrality.

4th Chapter: Invoicing and tax voucher

Art. 26 Invoice

¹The supplier must on request issue to the recipient of the supply an invoice, which satisfies the requirements of Paragraphs 2 and 3.

²The invoice must clearly identify the supplier, the recipient and the nature of the supply and as a rule contain the following elements:

- a. the name and the location of the supplier, in the form in which they present themselves in business transactions, the information that they are entered in the Register of Taxable Persons, as well as the number under which they are entered;
- b. the name and location of the recipient of the supply, in the form in which they present themselves in business transactions;
- c. date or period of the rendering of the supply, to the extent it differs from the invoice date;
- d. nature, object and scope of the supply;
- e. the consideration for the supply;
- f. the applicable tax rate and the tax amount payable out of the consideration; if the consideration includes the tax, the quotation of the applicable tax rate suffices.

³ On invoices, which are issued by automatic tills (cash vouchers), the information about the recipient of the supply must not be included, provided the consideration disclosed on the voucher does not exceed an amount laid down by the Federal Council.

Art. 27 Incorrect or unauthorised tax voucher

¹Anyone not entered in the Register of Taxable Persons or who uses the notification procedure according to Article 38, may not make reference to the tax on invoices.

²Anyone who discloses a tax on an invoice, although he is not entitled to disclose it, or who discloses too high a tax for a supply, owes the tax disclosed, unless:

- a. the invoice is corrected in accordance with Paragraph 4; or
- b. he or she shows credibly that the Confederation has not suffered a loss of tax; tax is not lost namely, if the recipient of the invoice has not undertaken an input tax deduction or the input tax claimed has been repaid to the Confederation.

³ The legal consequences of Paragraph 2 occur also with credit notes, to the extent the recipient of the credit note does not in writing contest a tax which is shown without justification or an excessive tax amount.

⁴ An invoice can be subsequently corrected within the period permitted by commercial law by a document requiring acknowledgement of receipt, which refers to and revokes the original invoice.

5th Chapter: Input tax deduction

Art. 28 Principle

¹ The taxable person may in the course of their business activity, subject to Articles 29 and 33, deduct the following input taxes:

- a. the domestic tax invoiced to him;
- b. the acquisition tax declared by him (Art. 45–49);
- c. the import tax paid or payable by him, which has been assessed unconditionally or has been assessed conditionally and fallen due as well as the tax declared by him for the import of goods (Art. 52 and 63).

² If the taxable person has procured from non-taxable farmers, foresters, gardeners, cattle dealers and milk collectors agricultural, forestry and market garden products, cattle or milk in the course of his or her business activity entitling to input tax deduction, he or she may deduct as input tax 2.5 per cent of the amount invoiced.

³ Deduction of the input tax under Paragraph 1 is permissible, if the taxable person proves that he or she has paid the input tax.

Art. 28a Deemed input tax deduction

¹ The taxable person may deduct a deemed input tax if:

- a. in the course of his or her business activity entitling to input tax deduction he or she has procured an individualisable, movable good; and
- b. when procuring the good no value added tax was openly transferred to him or her.

² The deemed input tax is calculated on the amount paid by the taxable person. The amount paid by the taxable person is to be understood as being inclusive of tax at the tax rate which was applicable at the time of the procurement.

³ No deemed input tax deduction can be made for goods which are subject to margin taxation in the sense of Article 24a.

Art. 29 Exclusion of the right to input tax deduction

¹ There is no right to input tax deduction on supplies and the import of goods, which are used for the rendering of supplies that are exempt without credit from the tax and where the option was not made for their taxation.

^{1bis} The input tax deduction can be made for supplies which were rendered abroad to the same extent as if they had been rendered in Switzerland and it had been possible to opt for their taxation under Article 22.

² Notwithstanding Paragraph 1 there is a right to input tax deduction in the course of business activity entitling to input tax deduction for the purchase, holding and sale of investments and for reorganisations as defined by Article 19 or 61 DBG.

³ Investments are participations in the capital of other enterprises that are held with the intent of long-term investment and grant significant influence. Participations of at least 10 per cent in the capital are deemed to be an investment.

⁴ When determining their deductible input tax, holding companies can refer to the business activity of the enterprises held by them which carries entitlement to make an input tax deduction.

Art. 30 Mixed use

¹ If the taxable person uses goods, parts thereof or services also outside their business activity and within their business activity, both for supplies entitling to input tax deduction and also for supplies that are excluded from input tax deduction, they must correct the input tax deduction in proportion to their use.

² If such a pre-supply is used to a predominant extent in the course of business activity for supplies entitling to the input tax deduction, the input tax can be deducted in full and corrected at the end of the tax period (Art. 31).

Art. 31 Own use

¹ If the conditions for input tax deduction are subsequently not fulfilled (own use), the input tax deduction is to be corrected at the point in time, at which the conditions are no longer fulfilled. The input tax previously deducted, including the parts corrected as de-taxation, must be repaid.

² Own use is given in particular, if the taxable person withdraws from their enterprise goods or services permanently or temporarily, if on procurement or contribution of the whole or of its components they have undertaken an input tax deduction or have procured the goods or services under the notification procedure according to Article 38 and which:

- a. they use outside their business activity, in particular for private purposes;
- b. they use for a business activity, which is not entitled to the input tax deduction under Article 29 Paragraph 1;
- c. they hand over without consideration, without the existence of a business reason; in the case of gifts up to 500 francs per person and year and of advertising gifts and samples with the aim of realising turnovers taxable or exempt from the tax, the business reason will be presumed automatically;
- d. on the cessation of tax liability are still subject to their right of disposal.

³ If in the period between the receipt of the supply and the non-fulfilment of the conditions for the input tax deduction the good or service was put to use, the input tax deduction is to be corrected in the amount of the fair value of the good or the service. To determine the fair value the input tax amount is reduced on a straight line basis for every year expired for moveable goods and for services by a fifth, for immoveable goods by a twentieth. The accounting treatment is of no significance. The Federal Council may, in justified cases, stipulate departures from the depreciation rules.

⁴ If a good is used only temporarily outside the business activity or for a business activity not entitling to the input tax deduction, the input tax deduction is to be corrected in the amount of the tax, which would relate to a rental, which would be invoiced by an independent third person.

Art. 32 De-taxation

¹ If the conditions for the input tax deduction arise later (de-taxation), the input tax deduction can be undertaken in the reporting period in which the conditions arose. The input tax not deducted earlier, including the portion corrected as own use, can be deducted.

² If the good or the service was put into use in the time between receipt or import of the supply and the occurrence of the conditions for the input tax deduction, the deductible input tax is limited to the fair value of the good or the service. To determine the fair value the input tax amount is reduced on a straight line basis for every year expired for moveable goods and for services by a fifth, for immoveable goods by a twentieth. The accounting treatment is of no significance. The Federal Council may, in justified cases, stipulate departures from the depreciation rules.

³ If a good is used only temporarily outside the business activity or for a business activity not entitling to the input tax deduction, the input tax deduction is to be corrected in the amount of the tax, which would relate to a rental, which would be invoiced by an independent third person.

Art. 33 Reduction of the input tax deduction

¹ Flow of funds, which are not deemed to be consideration (Art. 18 Para. 2), does not result in a reduction of the input tax deduction, subject to Paragraph 2.

² The taxable person must reduce their input tax deduction proportionately, if they receive cash under Article 18 Paragraph 2 lit. a–c.

6th Chapter: Calculation, constitution and time limitation of the tax claim

1st Section: Time of measurement

Art. 34 Tax period

¹ The tax is levied by tax period.

² The tax period is the calendar year.

³ The FTA permits the taxable person on request to use the business year as the tax period.¹

Art. 35 Reporting period

¹ Within the tax period the tax is reported:

- a. as a rule quarterly;
- b. for reporting using balance tax rates (Art. 37 Para. 1 and 2): half yearly;
- c. if there are regular input tax surpluses: on application of the taxable person monthly.

² On application the FTA permits, in justifiable cases, other reporting periods and stipulates the conditions therefor.

2nd Section: Amount of the tax claim and notification procedure

Art. 36 Effective reporting method

¹ In principle the effective reporting method is to be used.

² When applying the effective reporting method the tax claim is calculated as the difference between the domestic tax payable, the acquisition tax (Art. 45) and import tax declared in the transferral procedure (Art. 63) and the input tax balance for the corresponding reporting period.

Art. 37 Reporting using the balance and the flat rate tax rates

¹ If a taxable person does not generate annually more than 5,005,000 francs turnover from taxable supplies and in the same period does not have to pay more than 103,000 francs tax, calculated at the net tax rate applicable for them, they may report under the net tax rate method.

² When using the net tax rate method the tax claim is determined by multiplying the sum of the taxable considerations, including tax, generated in the reporting period by the net tax rate approved by the FTA.

³ The net tax rates take into account the input tax amounts usual in the industry. They are stipulated by the FTA after consultation with the industry association concerned.

¹ Not yet in effect
22

⁴ Reporting under the net tax rate method is to be applied for to the FTA and must be retained for at least one tax period. If the taxable person elects for the effective reporting method, they may not change to the net tax rate method for at least three years. Changes are possible for the beginning of a tax period.

⁵ Political units and related institutions, in particular private hospitals and schools or licensed transport undertakings and associations and foundations may report using the flat tax rate method. The Federal Council regulates the details.

Art. 38 Notification procedure

¹ If the tax calculated on the sales price at the statutory rate exceeds 10,000 francs or the sale is made to a closely related person, the taxable person has to fulfil their reporting and tax payment obligation by notification in the following cases:

- a. on reorganisations under Articles 19 and 61 DBG;
- b. on other transfers of a totality of assets or part thereof to another taxable person in the context of an incorporation, a liquidation, a reorganization, sale of a business or of another legal transaction foreseen in the Merger Law dated 3 October 2003.

² The Federal Council can determine, in what other cases the notification procedure is to be, or may be, used.

³ The notifications are to be made in the course of ordinary reporting.

⁴ By use of the notification procedure the acquirer takes over for the assets transferred the seller's measurement base and the level of use entitling to input tax deduction.

⁵ If in the cases mentioned in Paragraph 1 the notification procedure was not applied and the tax claim is secured, the notification procedure may no longer be mandated.

3rd Section: Constitution, change and time limitation of the tax claim

Art. 39 Form of reporting

¹ The tax is reported based on the agreed consideration.

² The FTA allows the taxable person on application to report on the basis of the consideration collected.

³ The form of reporting chosen must be retained for at least one tax period.

⁴ The FTA can oblige the taxable person to report on the basis of the consideration collected, if:

- a. they receive to a significant extent considerations, before they perform the supply or issue an invoice; or
- b. there is reasonable suspicion that the taxable person is misusing the reporting based on agreed considerations to create for themselves or a third party an unlawful benefit.

Art. 40 Constitution of the tax claim

¹ If reporting is on the basis of agreed considerations the entitlement to input tax deduction is constituted on the date of receipt of the invoice. The turnover tax liability accrues:

- a. on invoicing;
- b. with the issue of a partial invoice or with the collection of the partial payment, if the supplies give rise to a series of partial invoices or partial payments;
- c. with the collection of the consideration on advance payments for supplies not exempt from the tax and for supplies without invoice.

² If reporting is based on collected considerations the entitlement to input tax deduction is constituted on the date of payment. The turnover tax liability accrues with collection of the consideration.

³ The claim to input tax deduction based on the acquisition tax is constituted on the date of reporting the acquisition tax (Art. 47).

⁴ The claim to input tax deduction based on the import tax is constituted at the end of the reporting period in which the tax was established.

Art. 41 Subsequent change of the turnover tax liability and of the input tax deduction

¹ If the recipient of the supply corrects paid or agreed considerations, the turnover tax liability is to be adjusted on the date on which the correction is booked or the corrected consideration is collected.

² If the consideration expended by the taxable person is corrected, the turnover tax liability is to be adjusted on the date on which the correction is booked or the corrected consideration is paid.

Art. 42 Time limitation for the establishment of the tax

¹ The right to establish a tax claim is time-limited five years after the end of the tax period in which the tax claim was established.

² The time limitation is interrupted by a written declaration, requiring confirmation of receipt, aimed at establishing or correcting the tax claim, a ruling, an appeal decision or a judgement. A corresponding interruption of the time limitation may also be achieved by the announcement of an audit under Article 78 Paragraph 3 or the commencement of a surprise audit.

³ If the time limitation is interrupted by the FTA or an appeal body, the time limitation begins to run anew. It then runs for two years.

⁴ The time limitation is suspended, as long as for the relevant tax period a criminal tax procedure under this law is being carried out and the person liable for payment has been notified (Art. 104 Para. 4).

⁵ Interruption and suspension are effective towards all persons liable for payment.

⁶ The right to establish the tax claim is in any case time-limited 10 years after the end of the tax period in which the tax claim arose.

Art. 43 Validity of the tax claim

¹The tax claim becomes legally enforceable by:

- a. a ruling that has become legally enforceable, an appeal decision that has become legally enforceable or a judgement that has become legally enforceable;
- b. written recognition or payment without reservation of an assessment notice by the taxable person;
- c. the end of the time limitation for the establishment.

²Until they are legally enforceable, the returns submitted and paid can be corrected.

Art. 44 Assignment and pledge of the tax claim

¹ The taxable person may assign and pledge their tax claim under the Civil Law provisions.

²The rights of the FTA, namely its defences against claims and the measures to secure the tax, are not affected by the assignment or pledge.

3rd Title: Acquisition tax

Art. 45 Liability for acquisition tax

¹Subject to the acquisition tax are:

- a. services whose place of supply is in Switzerland according to Article 8 Paragraph 1 and that are rendered by enterprises with their place of business abroad which are not entered in the Register of Taxable Persons, with the exception of telecommunication and electronics services to non-taxable recipients;
- b. the import of data storage media without market value with the services and rights included therein (Art. 52 Para. 2);
- c. the delivery of immovable objects in Switzerland which is not subject to the import tax and which is performed by enterprises with their place of business abroad, that are not entered in the Register of Taxable Persons, except for the making of such objects available for use or exploitation.
- d. the delivery of electricity in cables, gas via the natural gas distribution grid and district heating by enterprises with their place of business abroad to taxable persons in Switzerland.

² Liable for the tax on supplies under Paragraph 1 is their recipient in Switzerland, provided he or she:

- a. is liable for tax under Article 10; or
- b. receives such supplies for more than 10,000 francs per calendar year.

Art. 45a Supplies which are not subject to acquisition tax

Supplies which are exempt without credit from domestic tax under Article 21 or exempt from domestic tax under Article 23 are not subject to the acquisition tax.

Art. 46 Tax measurement and tax rates

For tax measurement and the tax rates the provisions of Articles 24 and 25 apply.

Art. 47 Tax and reporting period

¹ For taxable persons under Article 45 Paragraph 2 lit. a, the same tax and reporting periods apply as for the domestic tax (Art. 34 and 35).

² The tax and reporting period for taxable persons under Article 45 Paragraph 2 lit. b is the calendar year.

Art. 48 Constitution and time limitation for the establishment of the acquisition tax liability

¹ The acquisition tax liability is constituted:

- a. with the payment of the consideration for the supply;
- b. in the case of taxable persons under Article 45 Paragraph 2 lit. a, who report on the basis of agreed considerations (Art. 40 Para. 1): at the date of receipt of the invoice and for supplies without invoicing on payment of the consideration.

² Time limitation and validity are governed by Articles 42 and 43.

Art. 49 Joint and several liability, tax succession and substitution

For joint and several liability, tax succession and substitution the provisions of Articles 15–17 apply.

4th Title: Import tax**Art. 50** Applicable law

For the tax on the import of goods the customs legislation applies, unless the following provisions prescribe otherwise.

Art. 51 Tax liability

¹ Liable for the tax is whoever owes customs duty under Article 70 Paragraphs 2 and 3 ZG.

² The joint and several liability under Article 70 Paragraph 3 ZG is annulled for persons who prepare customs declarations commercially (Art. 109 ZG), if the importer:

- a. is entitled to input tax deduction (Art. 28);
- b. has the input tax liability charged over the account of the centralised settlement procedure (ZAZ) of the EZV; and
- c. has commissioned the person, which issues customs registrations commercially with direct representation.

³ The EZV can require from the person, who issues customs declarations commercially, evidence of its power of representation.

Art. 52 Taxable object

¹ Subject to the tax is:

- a. the import of goods, including the services and rights contained therein.
- b. the transfer of goods into the customs free area in accordance with Article 17 Paragraph ^{1bis} ZG by travellers who are arriving by means of air transport from abroad.

² If on the import of data storage media no market value can be established and if the import is not exempt from the tax under Article 53, no input tax is due thereon and the provisions concerning the acquisition tax (Art. 45–49) are applicable.

³ On a plurality of supplies the provisions of Article 19 apply.

Art. 53 Tax exempt imports

¹ Exempt from the tax is the import of:

- a. goods in small quantities, of immaterial value or with an immaterial tax amount; the EFD issues more detailed provisions;
- b. human organs by recognised medical institutions and hospitals and of human whole blood by persons possessing the necessary licence;
- c. objects of art that were personally created by painters or sculptors and are brought into Switzerland by themselves or on their behalf, with a reservation as to Article 54 Paragraph 1 lit. c;
- d. goods that are customs free under Article 8 Paragraph 2 lit. b–d, g and i–l ZG;
- e. goods under Article 23 Paragraph 2 Heading 8 that are imported as part of a delivery by air transport enterprises under Article 23 Paragraph 2 Heading 8 or are brought into Switzerland by such air transport enterprises, provided they have procured the goods prior to import as part of a delivery and after the import use them for their own business activities entitling to input tax deduction (Art. 28);

- f. goods that have been assessed under the export procedure (Art. 61 ZG) and are returned unchanged to the consignor in Switzerland, provided they have not been exempt from the tax because of export; if the tax is material the tax exemption is granted by reimbursement; the provisions of Article 59 apply by analogy;
- g. electricity in cables, gas via the natural gas distribution grid and district heating;
- h. goods that are declared tax free in treaties governed by international law;
- i. goods that under Articles 9 and 58 ZG are imported into Switzerland for temporary use or under Articles 12 and 59 ZG for active finishing under the procedure with entitlement to reimbursement, with a reservation as to Article 54 Paragraph 1 lit. d;
- j. goods that are imported into Switzerland temporarily for job processing under a work and labour contract by a person in Switzerland entered as liable for tax and are assessed under the procedure for active processing with conditional liability for payment (non-imposition procedure) (Art. 12 and 59 ZG);
- k. goods that were exported from Switzerland under Article 9 and 58 ZG for temporary use or under Articles 13 and 60 ZG for passive job processing under a work and labour contract and are returned to the consignor in Switzerland, with a reservation as to Article 54 Paragraph 1 lit. e;
- l. goods that have been brought abroad for job processing under a work and labour contract under the export procedure (Art. 61 ZG) and are returned to the consignor in Switzerland, with a reservation as to Article 54 Paragraph 1 lit. f.

² The Federal Council can exempt from the import tax goods that it declares to be customs free under Article 8 Paragraph 2 lit. a ZG.

Art. 54 Measurement base

¹ The tax is calculated:

- a. on the consideration, if the goods are imported in fulfilment of a sales or commission transaction;
- b. on the consideration for work and labour deliveries, or work in the sense of Article 3 lit. d Heading 2, that are obtained using goods transformed into customs free (Art. 48 ZG) and are exported by a person in Switzerland not entered as liable for tax;
- c. on the consideration for work carried out abroad on behalf of painters and sculptors on their own objects of art (Art. 3 lit. d Heading 2), provided the objects of art were brought into Switzerland by themselves or on their behalf;
- d. on the consideration for the use of goods that were imported for temporary use under Articles 9 and 58 ZG, provided the tax on this consideration is material; if no or a reduced consideration is demanded for the temporary use, the consideration that would be charged by an independent third party is applicable;

- e. on the consideration for the work carried out abroad on goods (Art. 3 lit. d Heading 2) that were exported under Articles 9 and 58 ZG for temporary use or under Articles 13 and 60 ZG for passive job processing under a work and labour contract and are returned to the consignor in Switzerland;
- f. on the consideration for the work carried out on goods (Art. 3 lit. d Heading 2), provided they have been taken abroad for finishing under a work and labour contract under the export procedure (Art. 61 ZG) and are returned to the consignor in Switzerland;
- g. on the market value in the remaining cases; the market value is what the importer, at the level at which the import is effected, would have to pay to an independent supplier in the source land of the goods at the time of the constitution of the import tax liability under Article 56 under the conditions of free competition to obtain the same goods.

² If the tax calculation is based on the consideration, the consideration paid or payable by the importer or by a third party in their stead under Article 24 is applicable, with a reservation as to Article 18 Paragraph 2 lit. h. If the consideration is altered subsequently, Article 41 applies by analogy.

³ The measurement base is to include, if not already included:

- a. the taxes, customs duties and other charges incurred outside Switzerland and as a result of the import, except for the Value Added Tax being levied;
- b. the costs for the transport or despatch and all related supplies as far as the destination in Switzerland, to which at the time of the constitution of the import tax liability under Article 56 the goods are to be transported; if this location is unknown, the destination is the place, at which the transshipment takes place after constitution of the import tax liability in Switzerland.

⁴ If doubt exists as to the correctness of the customs declaration or values are lacking, the EZV can estimate the tax measurement base at its fair discretion.

⁵ Price or value information expressed in foreign currency adduced in determining the measurement base is to be translated into Swiss francs at the exchange rate (offer) prevailing on the stock exchange day immediately prior to the constitution of the import tax liability under Article 56.

Art. 55 Tax rates

¹ The tax on the import of goods is 7.7 per cent, with a reservation as to Paragraph 2.

² On the import of goods under Article 25 Paragraph 2 lit. a and abis, the tax is 2.5 per cent.

Art. 56 Constitution, time limitation and payment of the import tax liability

¹ The import tax liability is constituted at the same time as the customs liability (Art. 69 ZG).

² Taxable persons under Article 51, who settle the import tax liability over the ZAZ, are allowed for payment a period of 60 days after issue of the invoice; exceptions are imports in the tourist industry, which must be reported orally for customs assessment.

³ In respect of security reliefs may be granted, if as a result collection of the tax is not endangered.

⁴ The import tax liability is time-limited at the same time as the customs liability (Art. 75 ZG). The time limitation is suspended, as long as a criminal tax procedure according to this law is in process and the person liable for payment has been informed (Art. 104 Para. 4).

⁵ If the import tax liability changes as a result of subsequent adjustment of the consideration, in particular as a result of revision of the contract or because of price adjustments between related enterprises based on recognised guidelines, the tax that has been measured too low must be notified to the EZV within 30 days of the adjustment. The notification and the adjustment of the tax assessment may be omitted, if the additional tax payable could be deducted as input tax under Article 28.

Art. 57 Interest on late payment

¹ If the import tax liability is not paid on time, interest on late payment is due.

² The liability for late payment begins:

- a. on payment over ZAZ: with the expiry of the payment terms granted;
- b. on levy of the tax on the consideration under Article 54 Paragraph 1 lit. d: with the expiry of the payment terms granted;
- c. on subsequent levy of a reimbursement of taxes improperly effected: with the date of payment;
- d. in the other cases: with the constitution of the import tax liability under Article 56.

³ The liability for interest on late payment continues also during an appeal procedure and instalment payments.

Art. 58 Exceptions from the liability for interest on late payment Interest on late payment is not imposed, if:

- a. the import tax liability was secured by cash deposit;
- b. goods transformed into customs free (Art. 48 ZG) are first provisionally assessed (Art. 39 ZG) and at the time of receipt of the customs registration the importer was entered in Switzerland as a taxable person;

- c. goods conditionally assessed (Art. 49, 51 Para. 2 lit. b, 58 and 59 ZG), the customs procedure having been entered into:
 - 1. are re-exported, or
 - 2. are transferred to another customs procedure (Art. 47 ZG);
- c^{bis} in the case of conditionally assessed goods the importer was entered as a taxable person at the time of the receipt of the customs registration;
- d. [*repealed*];
- e. the goods are to be notified periodically for the customs assessment procedure (Art. 42 Para. 1 lit. c ZG) or are subsequently assessed under a simplified customs assessment procedure (Art. 42 Para. 2 ZG) and the importer was entered in Switzerland as a taxable person at the time of the import.

Art. 59 Entitlement to refund of the tax and time limitation

¹ For excess taxes imposed or taxes that are not due, there is an entitlement to refund.

² Not refunded are excess taxes imposed, taxes not due and taxes no longer due as a result of subsequent assessment of the goods under Articles 34 and 51 Paragraph 3 ZG or because of their re-export under Articles 49 Paragraph 4, 51 Paragraph 3, 58 Paragraph 3 and 59 Paragraph 4 ZG, if the importer is entered in Switzerland as a taxable person and can deduct the tax payable or paid to the EZV as input tax under Article 28.

³ The entitlement is time-limited five years after the end of the calendar year in which it was constituted.

⁴ The time-limitation is interrupted by a claim for the entitlement against the EZV.

⁵ It is suspended, as long as an appeal procedure in respect of the entitlement claimed is pending.

⁶ The entitlement to refund of excessive taxes imposed or taxes not due is in any event time-limited 15 years after the end of the calendar year in which it was constituted.

Art. 60 Refund because of re-export

¹ The tax imposed on import is on application refunded, if the conditions for input tax deduction under Article 28 are wanting and:

- a. the goods are re-exported unchanged without prior handover to a third party as part of a delivery in Switzerland and without having been earlier taken into use; or
- b. the goods were taken into use in Switzerland, but are re-exported as a result of cancellation of the delivery; in this case the refund is reduced by the amount, which represents the tax on the consideration for use of the goods or on the loss of value caused by use of the goods and on the non-refunded import customs duties and duties based on non-customs-based federal laws.

²The tax is refunded, only if:

- a. the re-export takes place within five years after the end of the calendar year in which the tax was imposed; and
- b. the identity of the goods exported with those earlier imported has been proven.

³The refund can in the specific case be made dependent on proper declaration in the import state.

⁴The applications for refund are to be submitted on notification for the export procedure. Subsequent refund applications can be considered, if they are submitted in writing to the EZV within 60 days of issue of the export document, with which the goods were assessed under the export procedure (Art. 61 ZG).

Art. 61 Refund interest

¹Refund interest is paid for the period until payment:

- a. on refund of excessive tax or tax not due under Article 59: from the 61st day after receipt of the written claim by the EZV;
- b. on refund of the tax as a result of re-export under Article 60: from the 61st day after receipt of the application by the EZV;
- c. in procedures with conditional payment liability (Art. 49, 51, 58 and 59 ZG): from the 61st day after due conclusion of the procedure.

²The interest-free period of 60 days first begins to run, if:

- a. all documents necessary for establishment of the facts and evaluation of the request have been received by the EZV;
- b. the objection to the assessment notice satisfies the requirements of Article 52 of the Federal Law dated 20 December 1968 governing Administrative Procedures (VwVG);
- c. the bases for calculation of the tax on the consideration under Article 54 Paragraph 1 lit. d are known to the EZV.

³ Refund interest is not paid on a tax abatement under Article 64.

Art. 62 Competence and procedure

¹The import tax is levied by the EZV. It issues the necessary ordinances and injunctions.

²The executive bodies of the EZV are authorised to undertake all the investigations that are necessary for the review of the facts significant for assessment of the tax. Articles 68–70, 73–75 and 79 apply by analogy. The EZV can, by agreement with the FTA, transfer to the FTA investigations by persons registered in Switzerland as taxable persons.

Art. 63 Movement of the tax payment

¹ Taxable importers registered with the FTA, which report using the effective method, can, instead of paying the tax payable on the import of goods to the EZV, declare it in the periodic tax return to the FTA (movement procedure), provided they regularly import and export goods and significant input tax surpluses result.

² If the goods imported under the movement procedure are further processed or finished in Switzerland after the import, the FTA can authorise taxable persons to deliver the processed or finished goods to other taxable persons without calculating the tax.

³ The Federal Council stipulates the details of the alternative procedure.

Art. 64 Tax abatement

¹ The import tax can be abated in whole or in part, if:

- a. goods held in the custody of the EZV or transferred to a transit procedure (Art. 49 ZG), a bonded warehouse procedure (Art. 50–57 ZG), a temporary use procedure (Art. 58 ZG) or a procedure of active finishing (Art. 59 ZG) are destroyed in whole or in part by chance, act of God or with official approval;
- b. goods transferred to customs-free transaction by official decree are destroyed in whole or in part or are again exported from Switzerland;
- c. a supplemental claim in the sense of Article 85 ZG would, in view of special circumstances, burden the taxable person under Article 51 unreasonably;
- d. the person commissioned with the customs declaration (e.g. the forwarding agent) cannot charge on the tax because of the insolvency of the importer and the importer was at the time of the acceptance of the customs declaration entered as a taxable person in Switzerland; insolvency of the importer is to be assumed, if the claim of the person commissioned appears to be seriously at risk.

² The headquarters of the customs administration decides about the tax abatement on written application supported by the necessary evidence.

³ The period for submission of an application is:

- a. on assessment with unconditional import tax liability: one year after the issue of the import document, with which the import tax was assessed;
- b. on assessment with conditional import tax liability: one year after conclusion of the customs procedure chosen.

5th Title: Procedural law for the domestic and acquisition tax 1st Chapter: General procedural provisions

Art. 65

¹ The FTA is competent for the imposition and the collection of the domestic and the acquisition tax.

² For an imposition and collection of the tax that conform with the law the FTA issues all the necessary instructions, the issue of which is not expressly reserved to another authority.

³ It publishes without delay all administrative regulations that are not exclusively of an internal administrative nature.

⁴ All administrative actions are to be completed expeditiously.

⁵ The taxable person may be burdened by the tax imposition only to the extent this is absolutely necessary for enforcement of this law.

2nd Chapter: Rights and obligations of the taxable person

Art. 66 Registration and de-registration as taxable person

¹ Persons, who are taxable under Article 10, must register with the FTA of their own accord in writing within 30 days of the commencement of their tax liability. The Administration issues them with a non-transferable number according to the requirements of the Federal Act regarding the Business Identification Number dated 18 June 2010, and the number is registered.

² If the tax liability ends under Article 14 Paragraph 2, the taxable person must de-register with the FTA in writing within 30 days of the end of the business activity, at the latest with the conclusion of the liquidation procedure.

³ Whoever becomes taxable solely because of the acquisition tax (Art. 45 Para. 2), must register with the FTA in writing within 60 days of the end of the calendar year for which he is liable for tax and at the same time declare the supplies procured.

Art. 67 Tax representation

¹ Taxable persons without residence or place of business in Switzerland must appoint a representative to perform their procedural obligations, who has their residence or place of business in Switzerland.

² In the case of group taxation (Art. 13) the VAT group must appoint a representative to perform their procedural obligations, who has their residence or place of business in Switzerland.

³ The appointment of a representative under Paragraphs 1 and 2 does not constitute a permanent establishment in accordance with the direct tax provisions.

Art. 68 Obligation to supply information

¹ The taxable person has to supply the FTA in good faith with information about all matters that could be of significance for the tax liability or for measurement of the tax and to submit the documents required.

² The statutorily protected professional confidentiality is reserved. Persons subject to professional confidentiality are obliged to open their books or records, but may hide the names and addresses of their client or replace them with codes, but not their residence or place of business. In cases of doubt, on application of the FTA or of the taxable person, the President of the competent Chamber of the Federal Administrative Court appoints neutral experts as controlling bodies.

Art. 69 Right to receive information

On written enquiry by the taxable person about the VAT consequences of specifically described facts, within a reasonable period the FTA provides information. The information is legally binding for the enquiring taxable person and the FTA; it cannot be applied to other facts.

Art. 70 Accounting and retention

¹ The taxable person must keep its books of account and records in accordance with the principles of Commercial Law. The FTA may in exceptional cases impose more extensive recording obligations, if it is essential for proper imposition of the VAT.

² The taxable person must retain in a proper manner its books of account, vouchers, business documents and other records until the absolute time limitation of the tax claim (Art. 42 Para. 6). Article 958f of the Code of Obligations is reserved.

³ Business documents that are required in connection with the calculation of de-taxation and own use of immoveable goods, are to be retained for 20 years (Art. 31 Para. 3 and 32 Para. 2).

⁴ The Federal Council stipulates the conditions, under which vouchers that are necessary under this law for enforcement of the tax, may be transmitted and retained in paperless form.

Art. 71 Submission of the return

¹ The taxable person must of its own accord make a return of the tax claim to the FTA within 60 days of the end of the reporting period in the prescribed form.

² If the tax liability ends, the period runs from this date.

Art. 72 Correction of errors in the return

¹ If the taxable person discovers in the course of drawing up its annual accounts errors in its tax returns, it must correct them at the latest in the return for the reporting period, in which the 180th day after the end of the relevant financial year falls.

² The taxable person is obliged to correct retroactively errors in returns recognised relating to past tax periods, to the extent the tax claims for these tax period have not become legally valid or are time limited.

³ The retroactive corrections of the returns must be notified in the form prescribed by the FTA.

⁴ In the case of system-based errors that are difficult to ascertain the FTA may grant the taxable person relief under Article 80.

3rd Chapter: Obligation of third parties to provide information

Art. 73

¹ Third parties obliged to provide information under Paragraph 2 must on demand of the FTA free of charge:

- a. provide all information that is necessary for establishment of the tax liability or for the calculation of the tax claim against a taxable person;
- b. permit insight into books of account, vouchers, business documents and other records, if the required information is not available from the taxable person.

² Third parties obliged to provide information are whoever:

- a. can be regarded as a taxable person;
- b. is liable for the tax in addition to or instead of the taxable person;
- c. has received or rendered supplies;
- d. holds a qualifying interest in a company subject to group taxation.

³ The legally protected professional confidentiality is reserved.

4th Chapter: Rights and obligations of the authorities

1st Section: Confidentiality and administrative assistance

Art. 74 Confidentiality

¹ Anyone entrusted with or is consulted on the execution of this law must maintain confidentiality about what he has become aware of in the performance of his duties towards other authorities and private persons and refuse insight into official documents.

²There is no duty of confidentiality:

- a. in the performance of administrative assistance under Article 75 and in fulfilling an obligation to report criminal acts;
- b. towards executive bodies of the judiciary or administration, if the authority entrusted with the execution of this law has been authorized by the EFD to provide information;
- c. in a specific case towards the debt enforcement and bankruptcy authorities or in the reporting of debt enforcement or bankruptcy offences to the prejudice of the FTA;
- d. for the following information contained in the Register of Taxable Persons: the registration number, address and business activity as well as the beginning and end of the tax liability.

Art. 75 Administrative assistance

¹The tax authorities of the Confederation, the cantons, the districts and municipalities support each other mutually in the fulfilling of their tasks; they must free of charge make the appropriate reports, provide the information required and grant insight into files.

²The administrative authorities of the Confederation and the autonomous federal organisations and establishments and all other authorities of the cantons, districts, administrative areas and municipalities not mentioned in Paragraph 1 are obliged to provide information to the FTA, if the information requested may be of significance for the enforcement of this law and for the collection of the tax; the information must be provided free of charge. On request, documents are to be forwarded to the FTA free of charge.

³Information may be refused, only to the extent this conflicts with important public interests or the information would significantly hinder the authority contacted in the performance of its task. Postal and telecommunications confidentiality is to be observed.

⁴Disputes about the obligation of administrative authorities of the Confederation to provide information are decided by the Federal Council. Disputes about the obligation of authorities of the cantons, the districts and municipalities to provide information are decided by the Federal Court (Art. 120 of the Federal Court Law dated 17 June 2005), if the cantonal government has refused the request for information.

⁵The organisations entrusted with public-law tasks have, in the context of these tasks, the same obligation to provide information as the authorities; paragraph 4 applies by analogy.

Art. 75a International administrative assistance

¹ The FTA can within the scope of its competencies give administrative assistance to foreign authorities on their request in connection with the performance of their tasks, namely ensuring the proper application of Value Added Tax law and the prevention, exposure and prosecution of violations of Value Added Tax law, provided that this is envisaged in an international treaty.

² It shall implement the administrative assistance by analogous application of Articles 115a–115i ZG.

2nd Section: Data protection**Art. 76** Data processing

¹ In fulfilment of its statutory duties the FTA may process sensitive personal data and personality profiles, including information about administrative and criminal prosecutions and sanctions.

² It may use the insurance numbers of the Old Age and Survivors Insurance according to Article 50c of the Federal Law dated 20 December 1946 governing Old Age and Survivors' Pensions in a systematic way when determining liability to tax.

Art. 76a Information system

¹ The FTA operates an information system for processing personal data as well as sensitive data regarding administrative and criminal prosecutions and sanctions and personality profiles.

² The system shall serve the following purposes:

- a. Establishing the tax liability of individuals and legal entities and groups of persons;
- b. Establishing the taxable supplies as well as levying and checking the tax due thereon and the deductible input taxes;
- c. Examining the supplies claimed as exempt from tax without credit and the input taxes in connection with this;
- d. Examining the exemption from tax of supplies which by law are subject to the tax or for which an option for taxation has been made;
- e. Performing the checks of import and export documents that are relevant for the levy of Value Added Tax;
- f. Ensuring the collection of the taxes due from the taxable persons and the jointly liable persons;
- g. Imposing and enforcing administrative and criminal sanctions;
- h. Processing requests for administrative assistance and judicial assistance;
- i. Combatting offences in the area of taxation;

- j. Keeping the statistics that are necessary for levying the tax;
- k. Preparing analyses and risk profiles.

3 The information system may contain the following personal data, including sensitive personal data:

- a. Information about the identity of persons;
- b. Information about the business activities;
- c. Information about the income and asset situation;
- d. Information about the tax situation;
- e. Information about the debt situation and the assignment of claims;
- f. Information about proceedings for debt enforcement, bankruptcy and arrest;
- g. Personality profiles within the meaning of Article 3 lit. d of the Federal Act on Data Protection of 19 June 1992;
- h. Information about compliance with obligations under tax law;
- i. Information about suspicion of offences;
- j. Information about crimes, confiscated objects and evidence;
- k. Information about administrative and penal proceedings as well as administrative assistance and judicial assistance proceedings.

Art. 76b Disclosure of data

1 The Swiss Federal Audit Office shall have access to the FTA's information system under Article 10 of the Financial Audit Law of 28 June 1967 for the purposes of fulfilling its statutory duties.

2 The FTA may disclose data according to Article 76a Paragraph 3 or give access to the data by means of the call-up system to persons at the EZV who are entrusted with the levying and collection of Value Added Tax as well as the implementation of penal and administrative procedures, provided that this is necessary for the fulfilment of their duties.

Art. 76c Storage of data and documents

1 Data and documents which are used and processed in application of this law must be stored carefully and systematically and protected from harmful effects.

2 The documents which are stored on the basis of this provision are equated to the originals.

Art. 76d Implementation provisions

The Federal Council shall issue implementation provisions about:

- a. the information system;
- b. the categories of the processed personal data;
- c. the catalogue of the sensitive data regarding administrative and criminal prosecutions and sanctions;
- d. entitlement to access and processing;
- e. the duration of the storage of the data; and
- f. the archiving and destruction of the data.

3rd Section: Securing the correct payment of the tax**Art. 77** Review

The FTA reviews the fulfilment of the obligation to register as a taxable person and the tax returns and payments.

Art. 78 Audit

¹ The FTA can perform audits of taxable persons, to the extent this is necessary to clarify the facts. For this purpose these persons must grant the FTA access to their accounts and related vouchers. The same applies for third parties obliged to provide information under Article 73 Paragraph 2.

² An audit may also consist of the demand for and review of comprehensive documentation by the FTA.

³ An audit must be notified in writing. In justifiable and exceptional cases notification of an audit may be waived.

⁴ The taxable person may by justified application require an audit. The audit is to be performed within two years.

⁵ The audit is to be concluded within 360 days of notification with an assessment notice; it states the amount of the tax claim in the period audited.

⁶ The findings related to third parties made during an audit under Paragraphs 1–4 of a bank or savings institution in the sense of the Bank Law dated 8 November 1934, of the Swiss National Bank, of a mortgage bond clearing house, of a securities dealer in the sense of the Stock Exchange Law dated 24 March 1995 or of a financial market infrastructure in the sense of the Financial Market Infrastructure Law dated 19 June 2015 may be used exclusively for the enforcement of the VAT. The professional confidentialities of the Bank Law, the Stock Exchange Law and the Financial Market Infrastructure Law are to be observed.

Art. 79 Discretionary assessment

¹ If none or only incomplete records are available or if the results reported obviously do not match the actual facts, the FTA makes a fair assessment of the tax claim.

² The tax claim is established with an assessment notice.

Art. 80 Simplifications

If the exact establishment of individual important facts for the measurement of the tax creates for the taxable person excessive inconvenience, the FTA grants relief and allows the tax to be determined approximately, provided that as a result there is no significant loss or increment of tax, no material distortion of the competitive situation and no excessive complication of the tax return for other taxable persons and the tax audit.

5th Chapter: Ruling and appeal procedures

Art. 81 Principles

¹ The provisions of the VwVG are applicable. Article 2 Paragraph 1 VwVG does not apply to the VAT procedure.

² The authorities establish the facts relevant in law *ex officio*.

³ The principle of the free consideration of evidence applies. It is not permissible to make proof dependent on the production of specific evidence.

Art. 82 Rulings of the FTA

¹ The FTA issues *ex officio* or on application of the taxable person all rulings necessary for the imposition of the tax, in particular if:

- a. the existence or amount of the tax liability is disputed;
- b. the registration or de-registration in the Register of Taxable Persons is disputed;
- c. the existence or amount of the tax claim, of the joint liability or of the entitlement to refund of taxes is disputed;
- d. the taxable person or persons jointly liable fail to pay the tax;
- e. other obligations arising from this law or from ordinances based on it are not recognised or not fulfilled;
- f. in a specific case and as a precautionary measure it is ordered or appears necessary to establish the tax liability, the tax claim, the principles for measurement of the tax, the applicable tax rate or the joint liability.

² Rulings are communicated to the taxable person in writing. They must include instructions on the right of appeal and an appropriate justification.

Art. 83 Appeals

¹ Rulings of the FTA can be contested by appeal within 30 days of communication.

² The appeal is to be submitted to the FTA in writing. It must contain the petition, its justification citing the evidence and the signature of the appellant or of his or her representative. The representative must identify himself by written power of attorney. The evidence must be described in the letter of appeal and enclosed with it.

³ If the appeal does not satisfy these requirements or if the petition or its justification lacks the necessary clarity, the FTA grants the appellant a short period for improvement. It combines this additional period with the threat that, if the period of grace expires unused a decision will be made based on the files or, if petition, justification, signature or power of attorney are wanting, not to consider the appeal.

⁴ If the appeal is raised against a properly justified ruling of the FTA, on application or with the consent of the appellant it is to be forwarded as an administrative appeal to the Federal Administrative Court.

⁵ The appeal procedure is to be continued despite withdrawal of the appeal, if there are indications that the contested ruling does not comply with the applicable provisions of the law.

Art. 84 Costs and compensation

¹ In ruling and appeal procedures as a rule no costs are imposed. No compensation is paid to the parties.

² Regardless of the outcome of the procedure, the costs of the procedure are imposed on the person or authority, which culpably caused them.

Art. 85 Revision, explanation and amendment

The revision, explanation and amendment of assessment notices, rulings and appeal decisions of the FTA are governed by Articles 66–69 VwVG.

6th Chapter: Collection**Art. 86** Payment of the tax

¹ Within 60 days of the end of the reporting period the taxable person must settle the tax claim that arose in the period.

² If the taxable person makes no payment or a payment that is obviously insufficient, the FTA, after issuing a reminder, seeks legal enforcement of the tax amount provisionally payable for the reporting period in question. If there is no return for the taxable person or a return that is obviously inadequate, the FTA first determines the tax amount provisionally payable at their fair discretion.

³ By filing an objection the taxable person instigates the procedure for dismissal. The FTA is competent for setting aside the objection in the ruling and appeal procedure.

⁴ The ruling concerning the dismissal can within 10 days of the instigation be contested by appeal to the FTA. The appeal decision is final subject to Paragraph 5.

⁵ If the FTA has determined the tax amount provisionally payable being legally enforced at its fair discretion, an administrative appeal against the appeal decision can be raised in the Federal Administrative Court. The administrative appeal has no suspensive effect, unless the court so orders on justified application. The Federal Administrative Court decides finally.

⁶ Article 85a of the Federal Law dated 11 April 1889 on the Enforcement of Debt and Bankruptcy (SchKG) is not applicable.

⁷ The collection of a tax amount under Paragraph 2 does not affect the establishment of the final tax claim according to Articles 72, 78 and 82. Should the establishment of the tax amount not be possible due to inactivity of the taxable person, in particular because he or she neither corrects errors according to Article 72, nor requests a ruling according to Article 82, then the tax amounts determined by the FTA according to Paragraph 2 shall also qualify as tax claims at the end of the time limitation for establishing the tax.

⁸ Instead of a payment of the tax amount the taxable person may provide securities pursuant to Article 93 Paragraph 7.

⁹ Immediately after receipt of the payment or the security the FTA withdraws the debt enforcement.

Art. 87 Interest on late payment

¹ On late payment interest is payable without reminder.

² Interest on late payment is not payable on an additional charge, if it is the result of an error, which if it had been correctly processed by the Confederation would not have led to loss of tax.

Art. 88 Refunds to the taxable person

¹ If the tax return discloses a surplus in favour of the taxable person, it is paid out.

² Reserved are:

- a. the set-off of this surplus with import tax liabilities, even if they are not yet due;
- b. the use of the surplus to secure tax under Article 94 Paragraph 1;
- c. the use of the surplus for set-off among federal agencies.

³ The taxable person can reclaim taxes paid, but not yet due, if the tax has not yet been legally established.

⁴ If the surplus under Paragraph 1 or the refund under Paragraph 3 is paid out more than 60 days after receipt of the tax return or of the written claim to the entitlement by the FTA, for the period from the 61st day until payment or refund a refund interest is paid.

Art. 89 Debt collection

¹ If the claim for tax, interest, costs and fines is not satisfied, the FTA instigates the legal debt-collection procedure and takes all civil and execution action that serves the purpose.

² If the tax claim is not yet final and if it is disputed, the FTA issues a ruling. Until a legal ruling is available, the final collocation is suspended.

³ If in the legal enforcement dismissal is requested, the taxable person instigates the procedure for dismissal. The FTA is competent for setting aside the dismissal.

⁴ [*repealed*];

⁵ The FTA must enter the tax claim in the public inventories or on public notices to creditors.

⁶ The taxes incurred in the context of enforcement procedures represent exploitation costs.

⁷ The FTA can in justified cases refrain from collecting the tax, if the prosecution of an enforcement procedure would not be successful.

Art. 90 Payment relief

¹ If payment of the tax, interest and costs within the prescribed period causes the taxable person significant hardship, the FTA can agree with the taxable person the extension of the payment period or instalment payments.

² Payment relief can be made dependent on an appropriate security.

³ Payment relief lapses, if the conditions lapse or if the conditions, to which they are tied, are not fulfilled.

⁴ The submission of an application for an agreement on payment relief does not arrest the enforcement.

Art. 91 Time limitation for collection

¹ The right to assert the tax claim, interest and costs is time-limited five years after the corresponding claim has become legally enforceable.

² The time limitation is suspended, as long as the taxable person cannot be proceeded against in Switzerland.

³ The time limitation is interrupted by every action requesting payment and every moratorium by the FTA and by every assertion of the claim by the taxable person.

⁴ Interruption and suspension are effective towards all persons liable for payment.

⁵ The time limitation commences in any event ten years after the end of the year, in which the claim became legally enforceable.

⁶ If a loss certificate is issued in respect of a tax claim, the time limitation of the procurement is governed by the provisions of the SchKG.

Art. 92 Tax abatement

¹ The FTA can abate in whole or in part legally established taxes, if the taxable person:

- a. has for an excusable reason not invoiced and collected the tax, a retroactive transfer is not possible or reasonable and payment of the tax would mean significant hardship;
- b. the tax is due merely and obviously as a result of not observing formal regulations or of processing errors or the taxable person proves that there is no loss of tax for the Confederation; or
- c. for an excusable reason could not fulfil its assessment obligations, but can prove or show credibly in retrospect that the discretionary assessment undertaken by the FTA is too high; in this case tax abatement is possible only up to the amount over-assessed.

²The FTA can also in court composition proceedings consent to a tax abatement or waive security for its claim.

³The request for abatement must be justified in writing and be submitted to the FTA together with the necessary evidence. An appeal against the ruling of the FTA is excluded. An administrative appeal can be made before the Federal Administrative Court.

⁴The submission of a request for tax abatement does not arrest the enforcement of legally established taxes.

⁵The tax abatement procedure is free of cost. However, the costs can be imposed in full or in part on the person submitting the request, if they have submitted an obviously unjustified request.

⁶*[repealed]*

7th Chapter: Security for the tax

Art. 93 Security

¹The FTA can require security for taxes, interest and costs, even if they are not legally established or due, if:

- a. their punctual payment appears to be at risk;
- b. the taxable person makes preparations to give up their residence or place of business or their permanent establishment in Switzerland or to be struck out of the Swiss Commercial Register;
- c. the taxable person is in arrears with its payment;

- d. the taxable person takes over in whole or part an enterprise, over which bankruptcy proceedings have been commenced;
- e. the taxable person submits obviously too low returns.

²If the taxable person waives exemption from tax liability (Art. 11) or opts for the taxation of supplies exempt without credit (Art. 22), the FTA can demand from the person security pursuant to Paragraph 7.

³The ruling requiring security must cite the legal reason for the security, the amount to be secured and the office that accepts the securities; it qualifies as an arrest order in the sense of Article 274 SchKG. An appeal against the ruling requiring security is excluded.

⁴An administrative appeal can be raised against the ruling before the Federal Administrative Court.

⁵Administrative appeals against rulings requiring security do not have suspensive effect.

⁶The delivery of a ruling concerning the tax claim qualifies as is deemed to be commencement of an action under Article 279 SchKG. The period for instigating debt collection procedures begins to run with the legal validity of the ruling concerning the tax claim.

⁷Security is to be provided by cash deposit, solvent guarantees, bank guarantees, mortgage certificates, life insurance policies with surrender value, listed SFr. bonds issued by Swiss borrowers or cash bonds issued by Swiss banks.

Art. 94 Other collateral measures

¹A surplus on the tax return in favour of the taxable person can:

- a. be set off against debts from prior periods;
- b. be credited for set-off against expected amounts payable for subsequent periods, if the taxable person is in arrears with the payment of tax or for other reasons it appears probable that the tax claim is at risk; the amount credited carries interest from the 61st day after receipt by the FTA of the tax return until the date of the set-off at the rate, which applies for refund interest; or
- c. be set off against a security required by the FTA.

²In the case of taxable persons without residence or place of business in Switzerland the FTA can also require security for anticipated debts under Article 93 Paragraph 7.

³If payments are repeatedly in arrears the FTA can oblige the taxable person to make monthly or half-monthly advance payments.

Art. 95 Striking out of the Commercial Register

A legal entity or a permanent establishment of a foreign enterprise may not be struck out of the Swiss Commercial Register until the FTA has notified the administration competent for keeping the register that the tax due has been paid or secured.

6th Title: Penal regulations

Art. 96 Tax evasion

¹ A fine of up to 400,000 francs is imposed on anyone who intentionally or negligently reduces the tax claim to the detriment of the state, by:

- a. not declaring in a tax period all receipts, declaring too high receipts from supplies exempt from the tax, not declaring all expenses subject to acquisition tax or by declaring too high expenses entitling to input tax deduction;
- b. effecting an incorrect refund; or
- c. effecting an unjustified tax abatement.

² The amount of the fine is up to 800,000 francs, if the tax evaded in the cases mentioned in Paragraph 1 is transferred in a form that entitles to input tax deduction.

³ A fine up to 200,000 francs is imposed on anyone who reduces the tax claim to the detriment of the state by declaring the tax factors relevant for establishment of the tax truthfully, but qualifies them incorrectly for tax purposes, to the extent he intentionally does not apply properly clear legal provisions, ordinances of the authorities or published practice rules and does not inform the authorities in writing in advance. If perpetrated negligently, the fine is up to 20,000 francs.

⁴ A fine up to 800,000 francs is imposed on anyone who reduces the tax claim to the detriment of the state, by:

- a. intentionally or negligently not declaring or declaring incorrectly or concealing goods on import;
- b. in response to an enquiry intentionally giving no, false or incomplete information during an official audit or administrative procedure that has as its object the establishment of the tax claim or tax abatement.

⁵ An attempt is punishable.

⁶ If the tax benefit is obtained on the basis of an incorrect return, the tax evasion is not punishable until the period for correction of errors in the return has expired (Art. 72 Para. 1) and the error has not been corrected.

Art. 97 Measurement of penalty and qualified tax evasion

¹ The fine is measured in application of Article 106 Paragraph 3 of the Penal Code (StGB); Article 34 StGB can be adduced by analogy. If the tax benefit obtained by the act is greater than the threatened penalty, if it was intentionally perpetrated, the fine can be increased up to double the tax benefit.

² In exacerbating circumstances the maximum amount of the fine threatened can be increased by half. At the same time imprisonment of up to two years can be recognised. Exacerbating circumstances are:

- a. the recruitment of one or more persons for a violation of VAT law;
- b. the perpetration of violations of VAT law for gain.

Art. 98 Infringement of procedural obligations

A fine is imposed, if the crime is not threatened under another provision with a higher penalty, on anyone who intentionally or negligently:

- a. does not register as a taxable person;
- b. despite reminder, does not submit a tax return on time;
- c. does not declare the tax in the right period;
- d. does not provide security properly;
- e. does not keep, complete, retain or present books of account, vouchers, business documents and other records properly;
- f. despite reminder, does not give or gives false information, or does not declare or declares incorrectly the data and goods necessary for the tax imposition or for review of the tax liability;
- g. in invoices discloses VAT that is not payable or is not payable in this amount;
- h. by quoting a false register number feigns entry in the Register of Taxable Persons;
- i. despite warning, hampers, hinders or makes impossible the proper performance of an audit.

Art. 99 Receiving untaxed goods

Anyone who purchases, receives as a gift, receives as a pledge or otherwise takes possession of, conceals, helps to sell or brings into circulation goods, of which he knows or must assume that the import tax payable has been intentionally evaded, is punished according to the penalty that is applicable to the perpetrator.

Art. 100 Violations in business operations

If a fine of at most 100,000 francs would be applicable and if the tracing of the persons punishable under Article 6 VStrR would give rise to investigations, which in relation to the level of punishment would be disproportionate, the authority can refrain from pursuing these persons and instead condemn the business (Art. 7 VStrR) to payment of the fine.

Art. 101 Collision

¹ Articles 7, 9, 11 and 12 Paragraphs 4 and 13 VStrR are not applicable.

² Punishment under Article 98 lit. a of this law does not exclude punishment under Articles 96 and 97.

³ Punishment under Article 14 VStrR excludes an additional punishment for the same crime under Articles 96 and 97 of this law.

⁴ If the act meets the criterion of evasion of the import tax or of receipt of untaxed goods as well as a violation to be pursued by the EZV of other duty decrees of the Confederation, the penalty for the most serious violation is imposed; it may be increased appropriately.

⁵ If the perpetrator fulfils as a result of one or more actions the conditions for several penalties, which fall within the area of competence of the FTA, the penalty for the most serious violation is imposed; it can be increased appropriately.

Art. 102 Self-indictment

¹ If the taxable person indicts himself for a violation of this law, before it is known to the competent authority, he will not be prosecuted, if:

- a. the person supports the authority in a reasonable manner in establishing the tax payable or refundable; and
- b. the person makes an effort in the payment of the tax payable or refundable.

² If a non-taxable person, who has perpetrated a violation of this law or has been involved in such a violation, indicts the violation, he will not be prosecuted.

³ A legal entity indicts itself through its executive bodies or representatives. The joint and several liability pursuant to Article 12 Paragraph 3 VStrR of the executive bodies or of the representatives is annulled and no prosecution will be undertaken.

⁴ A correction of the return under Article 72 Paragraph 2 qualifies as self-indictment.

Art. 103 Prosecution

¹ With the exception of Articles 63 Paragraphs 1 and 2, 69 Paragraph 2, 73 Paragraph 1 last sentence and 77 Paragraph 4, the VStrR is applicable for prosecution.

² Prosecution is the responsibility of the FTA for domestic tax and acquisition tax, of the EZV for import tax.

³ In criminal cases that are closely related, for which both the competence of the FTA and of the EZV is given, the FTA may in agreement with the EZV decide to unite the prosecution under one of the two authorities.

⁴ Prosecution may be refrained from, if guilt and consequences of the crime are minor (Article 52 StGB). In these cases a non-intervention or discontinuance ruling is issued.

⁵ If the competent authority has also to investigate or judge other criminal actions, for which the VStrR is applicable, Paragraph 1 applies for all criminal actions.

Art. 104 Procedural guarantees

¹ The accused person has the right to a fair criminal procedure in accordance with the Federal Constitution and the relevant laws governing criminal procedures.

² The accused person is not obliged to incriminate himself in a criminal procedure.

³ The information (Art. 68 and 73) given by the accused person in the criminal procedure or evidence from an audit under Article 78 may be used in a criminal procedure, only if the accused person consents thereto.

⁴ The commencement of a criminal investigation is to be notified in writing to the accused person without delay, unless there are important reasons against this.

Art. 105 Time limitation of prosecution

¹ The right to initiate a criminal investigation is time-limited:

- a. on infringement of procedural obligations: at the time the tax claim, which is related to the crime, is legally enforceable;
- b. in the area of domestic and acquisition tax:
 1. in the case of misdemeanours pursuant to Article 96 Paragraphs 1-3: six months after the relevant tax claim becomes legally enforceable,
 2. in the case of tax evasion pursuant to Article 96 Paragraph 4: two years after the relevant tax claim becomes legally enforceable,
 3. in the case of offences pursuant to Article 97 Paragraph 2 as well as offences pursuant to Articles 14-17 VStR: seven years after the end of the relevant tax period;
- c. in the area of import tax: for all offences and misdemeanours pursuant to Articles 96, 97 Paragraph 2 and 99 as well as offences pursuant to Articles 14-17 VStR: in seven years;
- d. *[repealed]*;
- e. *[repealed]*.

² The time limitation of the prosecution no longer sets in, if before expiry of the time limitation period a criminal ruling or a judgement in first instance is issued.

³ The time limitation for the payment and refund obligation pursuant to Article 12 VStrR is governed:

- a. in principle by Article 42;
- b. if an offence covered by Article 96 Paragraph 4, 97 Paragraph 2 or 99 or by Articles 14–17 VStrR is fulfilled, by Paragraphs 1 and 2.

⁴ The right to perform a criminal investigation that has already been instigated, is time-limited to five years; the time limitation is suspended, as long as the accused person is abroad.

Art. 106 Collection and time limitation of the fines and costs

¹ The fines and costs imposed in the criminal tax procedure are collected as under Articles 86–90. Article 36 StGB is applicable.

² The time limitation of the collection is governed by Article 91.

7th Title: Final provisions

1st Chapter: Implementing provisions

Art. 107 Federal Council

¹ The Federal Council:

- a. regulates the relief from VAT for beneficiaries under Article 2 of the Guest State Law dated 22 June 2007, who are exempt from liability for tax;
- b. determines under what conditions the tax on supplies rendered on them in Switzerland and on their imports covered by reciprocal law of the land, in which they have their residence or place of business, can be refunded to customers with their residence or place of business abroad; in principle the same requirements are to apply as exist for domestic taxable persons in respect of the input tax deduction.
- c. regulates the VAT treatment of supplies to persons who belong to the staff and at the same time are closely related persons; in this connection it shall take into consideration the treatment of these supplies for the purposes of direct federal tax and can provide for exceptions to Article 24 Paragraph 2.

² The Federal Council may issue provisions departing from this law concerning the taxation of turnovers in the import of gold coins and fine gold.

³ The Federal Council issues the implementing regulations.

Art. 108 EFD (Federal Department of Finance) The EFD:

- a. defines market conform interest rates for arrears and refunds and updates them periodically;
- b. determines the cases, in which interest on arrears is not imposed;
- c. stipulates up to what amount immaterial interest on arrears and refunds is not imposed or is not payable.

Art. 109 Consultative body

¹ The Federal Council can appoint a consultative body, consisting of representatives of the taxable persons, of the cantons, of scholarship, of tax practice and of consumers.

² The consultative body advises changes to this law and to the implementation and practice rules based on it in respect of their effects on the taxable persons and the economy.

³ It comments on drafts and can issue recommendations for change of its own accord.

2nd Chapter: Rescission and change of current law

Art. 110 Rescission of current law

The VAT Law dated 2 September 1999 is rescinded.

Art. 111 Change of current law

The following federal laws are changed as follows:

...

.

3rd Chapter: Transitional provisions

Art. 112 Applicability of current law

¹ The current legal provisions and the regulations issued on the basis of them continue to remain, subject to Article 113, applicable for all matters that occurred and legal circumstances that arose during their validity. The time limitation continues to be governed by Articles 49 and 50 of the current law.

² Services that were rendered before this law became effective and imports of goods, for which the import tax liability arose before this law became effective are governed by the current law.

³ Services that were rendered in part before this law became effective are to be taxed under current law for this part. Services that are rendered in part after this law becomes effective are taxable under the new law for this part.

Art. 113 Applicability of the new law

¹ For the determination whether the exemption from tax liability under Article 10 Paragraph 2 exists with the coming into effect of this law, the new law is to be applied to the supplies taxable under this law generated in the twelve months prior to it becoming effective.

² The provisions for de-taxation under Article 32 apply also for supplies, for which prior to the new law becoming effective no entitlement to input tax deduction was given.

³ Subject to Article 91 the new procedural law is applicable for all procedures pending at the date it becomes effective.

Art. 114 Election possibilities

¹ The taxable persons may, when this law becomes effective, again make use of the election possibilities foreseen in this law. If the election possibilities are linked to specific deadlines, they begin to run again on the date it becomes effective.

² If the taxable person does not react on the election possibilities within 90 days of the law becoming effective, it is assumed that the person retains their current election, provided this continues to be possible in law.

Art. 115 Alterations of the tax rates

¹ If the tax rates change Articles 112 and 113 apply by analogy. The Federal Council updates the maximum amounts laid down in Article 37 Paragraph 1 as appropriate.

² The taxable persons are to be allowed sufficiently long periods for the reporting of the tax amounts at the previous rates that are geared to the nature of the supply and service agreements.

Art. 115a Transitional provisions to the changes of 30 September 2016

Where input tax has already been deducted on collector's pieces such as works of art, antiques and the like at the time when the changes of 30 September 2016 come into effect, the input tax deduction shall not be cancelled, provided that the sale takes place in Switzerland and the Value Added Tax is paid on the entire sale price.

4th Chapter: Referendum and effective date**Art. 116**

¹This law is subject to the facultative referendum.

²Subject to Paragraph 3 it becomes effective on 1 January 2018. The Federal Council stipulates the effective date of Article 34 Paragraph 3.

³ If the referendum is called for and if the law is approved by popular vote, the Federal Council determines the effective date.

Contacts

For further information, please
visit us online at kpmg.ch/vat
or contact us: vat@kpmg.ch

kpmg.com/socialmedia



kpmg.com/app



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received, or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

©2017 KPMG AG is a subsidiary of KPMG Holding AG, which is a member of the KPMG network of independent firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss legal entity. All rights reserved.